

STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
ECONOMIC SERVICES ADMINISTRATION

**STATE TRIBAL RELATIONS UNIT & DIVISION OF CHILD SUPPORT**

**State/Tribal Partnerships:  
Providing Child Support Services in Indian Country**

**SOVEREIGN STATUS OF INDIAN TRIBES**

The relationship between the federal government and Indian tribes is the same as that between sovereign nations. Although Indian tribes are under the authority of the United States, they retain all the rights of self-government that have not been limited by federal treaties or statutes. This sovereign-to-sovereign relationship has been affirmed by rulings of the U.S. Supreme Court, underscored by Acts of Congress, affirmed and reaffirmed in federal and through the State of Washington's historic "Centennial Accord". The relationship between the state and the tribes is as sovereign-to-sovereign. Any state or federal policy addressing child support on behalf of Indian children needs to recognize the sovereignty of Indian tribes.

**CENTENNIAL ACCORD WITHIN THE STATE OF WASHINGTON**

Governor Booth Gardner and most of the Tribal Chairs of the Washington Tribes signed the Centennial Accord on August 4, 1989. This Accord recognizes and respects the sovereignty of the tribes and calls for a government-to-government approach to dealing with the Tribes.

Every Governor since then has signed a Proclamation again reaffirming the fundamental principles and integrity of government-to-government relations established by the Centennial Accord. It provides that the state acknowledges that the tribes have an historical relationship with reserved rights defined by treaties, federal statutes and executive orders of the President. It further states that the State of Washington seeks to strengthen the relationship with the federally recognized tribal governments to promote and enhance tribal self-sufficiency. It also directs its agencies to develop policy consistent with the stated principles and that the principles of the Accord shall guide Washington State's policy in relations with the federally recognized tribal governments.

**CASE LAW ON SOVEREIGN IMMUNITY**

Indian tribes, as governments, occupy a unique place in our governmental system. They are separate and independent political entities. Early Supreme Court decisions developed the nature of the legal relationship between the Indian tribes and the United States and the unique status of tribal governments. The Supreme Court held in Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831) that Indian tribes were distinct, self-governing legal entities and in Worcester v. Georgia, 32 U.S. (6 Pet.) 515 (1832) that state laws did not apply to Indian lands. Indian tribes comprise the third sovereignty in the United States, together with the federal government and the states.

In Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978) the Supreme Court determined that suits against Indian tribes were barred by sovereign immunity.

In North Sea Products v. Clipper Seafoods, 92 Wn.2d 236, 595 P.2d 939 (1979), the Superior Court of Whatcom County (Washington) issued a writ of garnishment on the Lummi Nation and/or its tribal enterprise which was located off reservation. The Washington Supreme Court stated that the Nation's sovereign immunity from suit includes immunity from garnishment actions. This case recognized in Indian tribes the same immunity from garnishment that other sovereigns possess. The general rule is that the United States and the states cannot be summoned as garnishees without statutory authorization, consent, or waiver.

As a result of tribal sovereignty and retained jurisdiction, many states do not have subject matter jurisdiction to establish and enforce child support orders. For states that can establish child support orders, many tribes will not honor state garnishment orders. In addition, many tribes do not have comprehensive tribal codes to address the establishment and enforcement of child support orders.

### **DCS'S STATE/TRIBAL RELATIONS SUMMARY**

Washington State's Division of Child Support (DCS) has a reputation for national leadership in the area of child support services, including its work with tribes. The relationships between DCS and each of the tribes are premised on mutual respect and deference between sovereigns. It is critical to understand this government-to-government relationship between the state and Indian tribes, in order to provide culturally relevant child support services.

One of the underlying bases for establishing a State Tribal Relations Program (STRP) in 1990 was to address the lack of success DCS had in providing full child support services in Indian Country. Collecting child support from employees working on Indian reservations was nearly impossible due to jurisdictional restraints, specifically the tribe's sovereign immunity.

In 1990, DCS began efforts to improve child support services in tribal communities by hiring Sarah Colleen Sotomish to facilitate the negotiations of child support agreements like the one then in place with the Confederated Tribes of the Colville Reservation. Sarah Colleen Sotomish, a Quinault tribal member and attorney with expertise in Federal Indian Law, began fostering a government-to-government relationship with each tribe in Washington. Over time other staff were hired and the State Tribal Relations Program (STRP) was created. STRP's mission was to *assist the State of Washington to work as partners with Tribal Nations on a government-to-government basis, to provide culturally relevant child support services. These services will be based on tribal laws and customs, and consistent with state and federal laws.*

In 1997, the Economic Services Administration (ESA) reorganized and created an expanded State Tribal Relations Unit (STRU) to improve state/tribal relations and policy consultation process throughout ESA. This unit combined and unified efforts among ten programs in five separate ESA Divisions. Sarah Colleen Sotomish was selected to manage this new unit. ***STRU strives to bring about successful Child Support and TANF Programs for Washington State Tribes, through effective State/Tribal relationships, for the benefit of tribal families.*** STRU's vision is to ***promote and support government-to-government relationships with Washington Tribes, recognizing tribal sovereignty in the development and delivery of programs and services. Through STRU's efforts and effective***

*partnerships with Tribal Governments, tribal members and families will achieve the highest degree of self-sufficiency possible.*

STRU and DCS continue to work together to actively find ways to build better working relationships with the individual tribes. They formed a State Tribal Relations Team consisting of State Office DCS staff, Economic Services Administration (ESA) State Tribal Relations Unit (STRU) staff, and Regional DCS staff. The DCS/STRU State Tribal Relations Team works with the tribes on a government-to-government basis, consistent with federal and state policies, to cooperatively address child support issues. This may include developing informal child support processes, state/tribal cooperative agreements and/or working with tribes that have Tribal TANF programs and IV-D Child Support Programs to coordinate the delivery of child support services. Team members are available to provide tribes with child support resources, technical assistance, training and outreach services. When requested, STRU assists tribes in drafting tribal child support codes and procedures.

Over the years, DCS and tribes have developed tribal-specific policies, cooperative child support agreements, and informal processes. DCS centralized all tribal cases and appointed tribal liaisons in each of the six DSHS regions. Tribal liaisons manage the cases, provide outreach services to interested tribes, and serve as a single point of contact for tribal cases. Each region also appoints an attorney who is responsible for bringing cases into various tribal courts

STRU strives to implement full government-to-government relationships with Indian tribes consistent with the Centennial Accord, by recognizing and working with tribal governmental officials at the legislative level in seeking to obtain official Tribal Resolutions on child support issues.

Working government-to-government with tribes strengthens partnerships, builds trust and improves comprehensive child support services for children. This government-to-government approach often results in new collection opportunities that may include on-reservation assets like employee wages, per capita payments, trust assets, license revocations of fireworks stands, fishing assets, and personal and real property.

### **FINDING COMMON GROUND**

The challenge has been to find common ground between all of the sovereignties: the 29 federally recognized Indian tribes, the federal government, and the State of Washington. While all these governments are sovereign bodies, the initial federal child support laws contained no explicit reference to Indian tribes or consideration of their laws and culture. This caused significant confusion and problems in the successful establishment and enforcement of support obligations for tribal members living on or near the reservations and/or employees working for a tribe or one of its tribal enterprises. Rather than litigating jurisdictional issues, Washington State chose to seek intergovernmental agreements or processes recognizing that in many circumstances tribal court may be the more appropriate forum to address child support issues.

DCS fully supports each tribe's right to assume the responsibility for its own members, and determine each tribal member's financial and economic needs based upon tribal laws, culture and custom. Partnering with the tribes, seeking their input, and coordinating the delivery of child support services

assists DCS in achieving its mission to *improve the lives of children and benefit families and taxpayers by providing quality child support services in a fair and fiscally responsible manner.*

The common ground that we have found is that the federal government, states and tribes all believe that children should be supported by parents and that the tribes play a significant role in this arena. Each tribe, as a separate sovereign government, will likely take different positions about the role of each government, the forum to establish paternity and child support, the nature of the support, and the forum and methods to enforce support.

Child support enforcement issues in Indian Country have become highly visible due to welfare reform legislation, state and tribal efforts, and threats of litigation by custodians not getting services. Two states have found themselves in federal court over these issues. Washington has taken the position that common ground and solutions can be reached between all three sovereigns, thus avoiding litigation. Over the past twelve years, DCS has cultivated good working relationships with tribes in Washington and the results have significantly benefited the families they serve.

### **KEY PROGRAM ACCOMPLISHMENTS**

- ◆ In 1990, building on the success of the 1987 Agreement with the Colville Confederated Tribes and consistent with the Centennial Accord, DCS established its State Tribal Relations Program (STRP).
- ◆ STRP met with the governing body of nearly every tribe in Washington to present information on DCS and STRP. These meetings and subsequent efforts made significant progress in establishing trust and developing a partnership to improve child support services in Indian Country.
- ◆ In 1991, 1992 and 1995 DCS sponsored statewide child support conferences for state employees and Washington tribes. DCS provided funding for the tribes to send one representative. The conferences provided dual training tracks: one track focused on child support enforcement, the other on Indian tribes and tribal sovereignty.
- ◆ Between 1992-98, in response to requests from tribal representatives, STRP developed and presented one-day child support workshops for tribal community representatives (tribal judges, attorneys, legal advisors, court staff, council members and department representatives).
- ◆ In 1992 DCS established a State/Tribal/Federal Child Support Work Group comprised of representatives from tribal, state, and federal governments to discuss updates, issues and possible solutions and recommendations. This forum has built mutual trust among the three sovereigns.
- ◆ STRP (now STRU) continues to develop and update tribal specific policies and procedures to facilitate working government-to-government with tribes. STRU writes tribal specific language for new policies, forms and brochures.
- ◆ DCS centralized tribal cases and appoints and trains tribal liaisons to manage them, to

provide outreach to individuals on the reservation, and to act as point people for Tribes, DCS Headquarters and DSHS Programs.

- ◆ In 1992 DCS and the Nisqually Tribe finalized the Nisqually Agreement. It is an enforcement-only model and allows for enforcement of foreign judgments (state, tribal and administrative child support orders) in the Nisqually Tribal Court. In 1997 DCS worked with the Nisqually Tribe to finalize the implementation procedures.
- ◆ In 1994 the Swinomish Tribe became the first to have a policy allowing garnishments of non-Indian employees' wages for child support in Washington. In 1998 the Swinomish Senate adopted a child support ordinance that includes recognition of foreign judgments, a child support worksheet and a child support schedule.
- ◆ In 1995 DCS negotiated a more comprehensive agreement with the Colville Tribes providing for both the establishment of paternity and child support, and the enforcement of child support on the Colville Reservation. In 1997 a Colville Resolution was passed adopting child support guidelines, worksheets, schedule and charge-off statute. The guidelines and worksheets reflect tribal custom and tradition. In 2000 DCS and the Colville Tribes agreed to a Memorandum of Understanding (MOU) regarding temporary funding for paternity establishment.
- ◆ In 1996 the Tulalip Tribes passed Ordinance 86 on Child Support Enforcement, as a result of negotiations with DCS. In 1998 the Tribes passed Ordinance 86A, modifying the terms of their child support enforcement process.
- ◆ In 1997 STRU and DCS partnered with the Northwest Tribal Court Judges' Association (NWTCA) to develop a bench book on child support enforcement and related laws funded through a federal demonstration grant. The bench book was published in 1999, is used by forty-three (43) tribal courts in the Northwest and serves as a national model for other tribes, tribal courts, and states.
- ◆ In 1997 STRU assisted in drafting Washington State legislation on Cooperative Child Support Services with Indian Tribes (RCW 26.25).
- ◆ In 1997 the Economic Services Administration (ESA) expanded their state/tribal efforts by creating the State Tribal Relations Unit (STRU). This unit unifies state/tribal efforts in ten program areas of five separate ESA Divisions, including DCS.
- ◆ In 1998 STRU lead ESA in negotiating two intergovernmental TANF agreements, one with the Lower Elwha Klallam Tribe and one with the Port Gamble S'Klallam Tribe. In 1999 a Tribal TANF child support agreement was negotiated with the Lower Elwha Klallam Tribe, and STRU wrote DCS policy to address the child support impact of Tribal TANF cases. Since then, DCS has worked to address Tribal TANF child support services with the Quinault Indian Nation, Quileute Tribe, Colville Confederated Tribes and the Spokane Tribe.
- ◆ Since 1998 STRU has provided resource materials and technical assistance to several tribes who received federal child support planning grants (i.e. Puyallup Tribe, Lummi Tribe, Port Gamble

S'Klallam Tribe). Between 2001 and 2002, all three Tribes went on to receive federal approval to operate a direct federally-funded child support program. DCS and STRU continue to work with these tribes to develop policy and procedure to coordinate DCS and tribal child support services.

- ◆ In 1999 STRU worked with DCS to develop a Tribal Relations Child Support Internet site. To our knowledge, this web site is the first of its kind in the nation. It includes information regarding Federal Indian Law, Washington treaties, federal/state tribal law and policy, Centennial Accord, DSHS Administrative Policy 7.01, map of federally recognized tribes by DSHS region, DCS Tribal Policy, cooperative child support agreements, tribal child support codes and schedules, contact information and tribal resource links. The web site address is [www.dshs.wa.gov/dcs/tribal](http://www.dshs.wa.gov/dcs/tribal).
- ◆ In 2000 STRU hosted a two-day state/tribal conference entitled “Strengthening Tribal/State Partnerships in Welfare Reform: We Can Empower Tribal Families.” The conference provided a forum for tribal leaders and state representatives to discuss critical issues related to the state’s welfare reform programs.
- ◆ In 2000 STRU coordinated a meeting for Tribal representatives and DCS staff regarding the proposed federal rules authorizing direct federal funding for tribal child support programs.
- ◆ In 2001 DCS finalized a cooperative child support agreement with the Nez Perce Tribe (Idaho). This was the first agreement with an out-of-state tribe.
- ◆ In 2001 ESA and STRU renegotiated tribal TANF agreements with the Port Gamble S'Klallam Tribe and the Lower Elwha Klallam Tribe.
- ◆ In 2001 ESA and STRU negotiated tribal TANF agreements with the Quinault Nation, Quileute Tribe and the Colville Confederated Tribes. STRU and DCS are developing child support processes with these tribes.
- ◆ In 2002 DCS, STRU and the Kalispel Tribe finalized a Cooperative Child Support Agreement. The agreement was signed January 8, 2003.
- ◆ In 2002 STRU developed a STRU Intranet Website, <http://iesa.dshs.wa.gov/stru/>, dedicated to providing tribal resource information to DSHS staff.
- ◆ In 2002 STRU worked with DCS to develop an on-line SEMS Web Tribal Employer Database, to better identify and help prevent wage withholding actions from being sent to tribal employers.
- ◆ In 2002 STRU developed a Tribal Policy Overview section for the SEO 1 On-line Training Plan, including a PowerPoint presentation and an Overview Test.
- ◆ In 2003 STRU developed new resource materials for Tribes, including: three (3) flow charts identifying child support issues related to Tribal TANF Programs, PowerPoint presentations concerning Tribal TANF/WorkFirst and Child Support Options; and a document entitled Good Cause, Domestic Violence and Child Support for Tribal TANF and Child Support Programs.
- ◆ In 2003 STRU developed a draft Model Child Support Agreement and a draft Model Tribal TANF

Child Support Agreement (<http://www.dshs.wa.gov/dcs/tribal/pdf/tribetanf.pdf>) as a starting point for State Tribal negotiations.

- ◆ In 2003 STRU drafted Tribal Policy (including: history, equitable access to WorkFirst, Tribal TANF, Tribal Contracting, Tribal Participation, Child Support and Child Care) for the WorkFirst Handbook.
- ◆ In 2003 STRU and DCS finalized a Memorandum of Agreement concerning Child Support Services on Tribal TANF cases with the Colville Confederated Tribes.
- ◆ In 2003, STRU and DCS offered child support training to tribes who are operating or soon plan to operate a federally funded Tribal TANF program. The training included general overview of TANF and Child Support Connections and specific case management, accounting and distribution issues related to child support in Tribal TANF cases.
- ◆ In 2004 Tribal TANF negotiations were completed with SPIPA (South Puget Intertribal Planning Agency – representing Squaxin Island, Skokomish and Nisqually Tribes).
- ◆ In 2004 DCS and 14 Washington Tribes participated in a two-day “Coming Together: Understanding Tribal and State Child Support” conference, sponsored by Region X OCSE. Tribes were also invited to participate in a two-day DCS Training Conference, which included state/tribal workshops on Federal Indian Law, Tribal TANF Programs, and Tribal IVD Programs.
- ◆ STRU and DCS are working with the following Tribes who have recently submitted applications for start-up funding to operate a Tribal IVD program: Nooksack, Colville and Quinault Nation. Yakama Nation and the Lower Elwha Klallam Tribe are also working on IVD applications.
- ◆ In 2005 ESA completed Tribal TANF negotiations with the Tulalip Tribes and the Nooksack Tribe, who become the 8<sup>th</sup> and 9<sup>th</sup> Tribal TANF programs in Washington State.
- ◆ In 2005 DCS/STRU and the Port Gamble S’Klallam Tribe completed a pilot project to give the Tribal IVD Program limited access to case information from the DCS computer Support Enforcement Management System (SEMS).
- ◆ Currently DCS has signed child support agreements with the following tribes: Colville Confederated Tribes, Nisqually Tribe, Lower Elwha Klallam Tribe, Nez Perce Tribe (Idaho), Kalispel Tribe, Quinault Indian Nation (Data Share agreement). DCS has an oral agreement with the Stillaguamish Tribe and informal agreements with 15 other tribes on child support related issues. See the DCS Tribal Website (<http://www.dshs.wa.gov/dcs/tribal/csagreements.shtml>) for more information on agreements and informal processes.

## **CONCLUSION**

The DCS/STRU State Tribal Relations Team continues to work government-to-government with Indian tribes to provide culturally relevant child support services for children and families in Indian Country. State/tribal partnerships have resulted in cooperative child support agreements, informal processes, development of tribal child support codes, utilization of tribal court remedies, and direct

federal funding of tribal child support programs. More children are now receiving child support in Indian country as a result of State/Tribal cooperation and collaboration.

For more information about the DCS/STRU State Tribal Relations Team, please contact STRU staff at the addresses and telephone numbers listed below, or visit the DCS Tribal Relations Internet Web Site at [www.dshs.wa.gov/dcs/tribal](http://www.dshs.wa.gov/dcs/tribal) or the STRU Intranet Site on iESA at <http://iesa.dshs.wa.gov/stru/>.

STRU staff are available to assist DCS and tribes with cooperative agreements, informal processes, policy development, technical assistance and resolution of issues on individual child support cases. They can provide technical assistance, training and share numerous resources (various tribal child support codes, state/tribal cooperative child support agreements, a model child support agreement and other resources).



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